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**UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF WASHINGTON, AT SEATTLE**

BOARD OF TRUSTEES OF THE EMPLOYEE PAINTERS' TRUST, <i>et al.</i> ,  Plaintiffs, vs. GLOBAL COATINGS LLC, <i>et al.</i> ,  Defendants.	CASE NO.: 2:22-cv-01645-JHC  <b>STIPULATION AND ORDER TO STAY CASE PENDING COMPLETION OF A SECOND PAYROLL COMPLIANCE AUDIT</b>  <b>NOTING DATE: APRIL 9, 2024</b>
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The Plaintiffs, Board of Trustees of the Employee Painters' Trust, *et al.* ("Plaintiffs"), by and through their Counsel, Christensen James & Martin, and Defendants, Global Coatings LLC and Mark Andrew McCalman ("Defendants"), by and through their Counsel, Gordon Thomas Honeywell LLP, hereby stipulate as follows:

1. This case centers on alleged fringe benefit payment obligations arising from the Western Washington Area Agreement for the Professional Painting Industry ("CBA") between the International Union of Painters and Allied Trades District Council No. 5, Painters Union Local 300 ("Union"), and Defendant Global Coatings, LLC ("Global Coatings"). *See* ECF No. 15 at 2:16-25.
2. The Court previously stayed this case through September 30, 2023, to allow time for Plaintiffs' auditor to perform an audit of the payroll of Global Coatings for the period

1 November 1, 2017 through March 31, 2022 (“First Audit Period”) and to discuss resolution of  
2 the claims arising from the First Audit Period. *See* ECF Nos. 9, 11, and 13.

3 3. The Parties filed a Joint Status Report and Discovery Plan on October 9, 2023  
4 [ECF No. 15]. Plaintiffs reserved the right to audit Global Coatings’ payroll for the period of  
5 April 1, 2022 forward. *See* ECF No. 15 at 3:4-15.

6 4. The Court entered a Minute Order Setting Trial Date and Related Dates on  
7 October 27, 2023 [ECF No. 17]. Discovery is currently scheduled to be completed by May 10,  
8 2024. *Id.*

9 5. During discovery, the Parties have continued to discuss potential resolution of  
10 the Plaintiffs’ claims arising from the First Audit Period. Based on discussions between the  
11 Parties, a revision of the report for the First Audit Period was recently completed and issued on  
12 April 5, 2024 (“Revised First Audit Report”).

13 6. During discovery, Plaintiffs also requested production of payroll records for the  
14 period from April 1, 2022 forward for the purposes of conducting a second audit. The Parties  
15 have continued to disagree about whether, and to what extent, Global Coatings might have been  
16 bound by the CBA, with Plaintiffs alleging that the CBA continued in force and Defendants  
17 arguing that the CBA’s application was limited and that the CBA was terminated effective as  
18 early as February 28, 2023. The Parties agree that the scope of damages assertable in this case is  
19 directly impacted by the time period that the CBA remained in force, but the termination dispute  
20 has prevented the Parties from moving forward on this issue until recently.

21 7. The Union recently gave notice to the Parties that it considers the CBA  
22 terminated effective February 29, 2024. Defendants reserve the right to argue that the CBA was  
23 limited in scope and/or terminated on an earlier date, but have agreed to produce payroll records  
24 for the period of April 1, 2022 through February 29, 2024 (“Second Audit Period”) to allow  
25 Plaintiffs’ auditor to perform a second audit. The Parties further agree that in the event an audit  
26 of the Second Audit Period reveals additional amounts that Plaintiffs may claim are due, such

1 claims and damages may be asserted in this Case in the interest of judicial economy. The  
2 Defendants reserve all defenses as to such claims.

3 8. Plaintiffs have selected the accounting firm WithumSmith+Brown, P.C.  
4 (“Auditor”) to perform the audit of the Second Audit Period.

5 9. Defendants agree that within 14 days after this Order is entered they will provide  
6 the Auditor with as many of the labor and financial records requested in Plaintiffs’ First Request  
7 for Production of Documents, Requests #s 45-63, as are in Defendants’ possession, custody or  
8 control and will further cooperate with any other reasonable request by the Auditor for  
9 additional records that the Auditor deems necessary to complete the audit for the Second Audit  
10 Period. The Parties agree that documents provided to the Auditor by Global Coatings will be  
11 considered documents produced in discovery in this case and will be shared with both Plaintiffs  
12 and Defendants. The Parties expressly grant the Auditor permission to share such documents  
13 with the Parties.

14 10. The Parties further agree that a 90-day stay of litigation is appropriate to allow  
15 time for the audit of the Second Audit Period to be completed, the Auditor to issue a Second  
16 Audit Report for review by the Parties and for follow-up efforts to globally resolve the claims  
17 and defenses in this case.

18 11. This Stipulation is made to avoid unnecessary expenditure of resources in  
19 litigation and is not intended to delay or for any improper purpose.

20 12. The Parties agree that all case deadlines shall be stayed for ninety (90) days from  
21 the date of entry of Order on this Stipulation.

22 13. No later than two weeks prior to the expiration of the stay, the Parties will meet  
23 and confer and file a joint status report to update the Court on the status of the second audit and  
24 how the Parties intend the case to proceed.

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1           14.     The stay does not apply to any motions that may be brought by either party to  
2 compel compliance with this Stipulation and the disclosure of necessary documents and  
3 information to complete the Audit for the Second Audit Period.

4 DATED this 9th day of April, 2024.

DATED this 9th day of April, 2024.

5 CHRISTENSEN JAMES & MARTIN

GORDON THOMAS HONEYWELL LLP

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**ORDER**

Good Cause Appearing, Defendants Global Coatings LLC and Mark Andrew McCalman, shall submit to and cooperate with the audit for the Second Audit Period in accordance with the foregoing Stipulation, and this Case and all deadlines shall be extended and stayed for a period of ninety (90) days in accordance with the Stipulation. All other provisions of the Stipulation are also approved and Ordered.

DATED this 10th day of April, 2024.



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JOHN H. CHUN  
United States District Judge